

CHAPTER 100

GENERAL ASSEMBLY

SENATE BILL 19-147

BY SENATOR(S) Hisey and Sonnenberg, Coram, Donovan, Ginal, Bridges, Crowder, Pettersen, Tate, Todd, Woodward, Garcia; also REPRESENTATIVE(S) Valdez D. and Catlin, Arndt, Buentello, Caraveo, Esgar, Hooton, Liston, McLachlan, Pelton, Roberts, Snyder, Soper, Titone, Valdez A., Will.

AN ACT

CONCERNING THE CONTINUATION OF THE SEED POTATO ACT, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (17)(a)(II); and **add** (29)(a)(V) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (17) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2019:

(II) ~~The functions of the commissioner of the department of agriculture related to seed potatoes specified in article 27.3 of title 35, C.R.S.;~~

(29) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2028:

(V) THE FUNCTIONS OF THE COMMISSIONER OF AGRICULTURE RELATED TO SEED POTATOES UNDER ARTICLE 27.3 OF TITLE 35.

SECTION 2. In Colorado Revised Statutes, 35-27.3-105, **repeal** (4) as follows:

35-27.3-105. Minimum standards for planting seed potatoes - scope - qualified seed potatoes - rules. (4) ~~Prior to January 1, 2012, a Colorado potato grower may plant uncertified and untested seed potatoes if the seed potatoes have~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

been grown as part of that grower's farming operations.

SECTION 3. In Colorado Revised Statutes, 35-27.3-106, **amend** (2)(a); and **repeal** (3) as follows:

35-27.3-106. Record-keeping requirements - annual record reviews.

(2) (a) The commissioner shall ~~upon recommendation from the advisory committee,~~ select a qualified department employee ~~or independent auditor~~ to perform a records review on at least ten percent of potato growers subject to this ~~article~~ ARTICLE 27.3 once every seed potato crop cycle. The commissioner shall determine a method for the annual random selection of growers. The area committee for area no. 2, established in the marketing order regulating the handling of potatoes grown in the state of Colorado, as amended, issued pursuant to the "Colorado Agricultural Marketing Act of 1939", article 28 of this ~~title~~ TITLE 35, shall pay the actual costs of such records reviews.

(3) ~~If the independent auditor who conducted the records review believes a violation of this section has occurred, he or she shall notify the commissioner. The commissioner shall then investigate the alleged violation according to section 35-27.3-109.~~

SECTION 4. In Colorado Revised Statutes, 35-27.3-107, **amend** (4) as follows:

35-27.3-107. Advisory committee - created - members - terms - duties - sunset review - repeal. (4) The advisory committee shall advise the commissioner in establishing rules under this ~~article~~ ARTICLE 27.3, assist in the determination of availability of potatoes, recommend whether to grant permission to plant uncertified seed potatoes, ~~recommend independent auditors to perform records reviews pursuant to section 35-27.3-106 (2),~~ and consult with the commissioner regarding the administration and enforcement of this ~~article~~ ARTICLE 27.3.

SECTION 5. In Colorado Revised Statutes, 35-27.3-108, **amend** (1) introductory portion, (1)(b) introductory portion, and (1)(b)(VII) as follows:

35-27.3-108. Powers and duties of the commissioner - rules. (1) In addition to any other duties in this ~~article~~ ARTICLE 27.3, the commissioner shall:

(b) Adopt rules necessary for the administration and enforcement of this ~~article~~ ARTICLE 27.3, including rules that:

(VII) Set a schedule of fees for services performed by the department, which fees ~~shall~~ MUST be billed ~~on a pro-rata basis to the area committees for areas~~ TO THE COMMITTEE FOR AREA NO. 2, ~~and no. 3,~~ established in the marketing order regulating the handling of potatoes grown in the state of Colorado, as amended, issued pursuant to the "Colorado Agricultural Marketing Act of 1939", article 28 of this ~~title~~ TITLE 35.

SECTION 6. In Colorado Revised Statutes, 35-27.3-110, **amend** (1)(a) as follows:

35-27.3-110. Violations - civil penalties. (1) (a) Except as otherwise provided

in this section, the commissioner may impose a civil penalty on ~~any~~ A person who violates ~~any provision of this article~~ ARTICLE 27.3 or ~~any~~ A rule adopted under this article. ~~Such penalty shall not exceed two thousand five hundred dollars per violation~~ ARTICLE 27.3.

SECTION 7. In Colorado Revised Statutes, **amend** 35-27.3-112 as follows:

35-27.3-112. Repeal of article - termination of functions. This ~~article~~ ARTICLE 27.3 is repealed, effective September 1, ~~2019. Prior to such~~ 2028. ~~BEFORE THE~~ repeal, the certification functions of the commissioner ~~shall be reviewed as provided for in~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

SECTION 8. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to offenses committed on or after the applicable effective date of this act.

Approved: April 12, 2019